

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT  
DISTRICT OF MASS

ROBERT J. HARRINGTON, FAYE BYRON,  
CRAIG BUCK, VALERIE L. PAWSON,  
RAY DRASNIN, WANDA MILLS, JEFF  
GOLUMBUK, CAROLINE MARSHALL-  
SMITH, ANESIA KALAITZIDIS,  
KENNETH IVANOVITZ, ATHANASE  
KARAGIORGOS, HARRIET ZALWANGO,  
MICHAEL BLAU, KENNETH MICCICHE  
and JENNIEE TSOUVRAKAS, on behalf of  
themselves and others,

Plaintiffs,

v.

CIVIL ACTION NO. 04-12558-NMG

DELTA AIRLINES, INC., AMERICAN  
AIRLINES, US AIRWAYS GROUP, INC.,  
d/b/a US AIRWAYS, NORTHWEST  
AIRLINES, UNITED AIRLINES, INC.,  
ALASKA AIRLINES, CONTINENTAL  
AIRLINES, AIR CANADA, CHINA  
EASTERN AIRLINES CORPORATION  
LIMITED, CHINA SOUTHERN AIRLINES  
COMPANY LIMITED, DEUTSCHE  
LUFTHANSA, A.G., d/b/a LUFTHANSA  
AIRLINES, SWISS INTERNATIONAL  
AIRLINES LTD., d/b/a SWISSAIR, BRITISH  
AIRWAYS, PLC, d/b/a BRITISH AIRWAYS,  
MIDWAY AIRLINES CORP., d/b/a  
MIDWAY AIRLINES, ALITALIA-LINEE  
AEREE ITALIANE S.p.A., d/b/a ALITALIA  
AIRLINES, SOUTHWEST AIRLINES, CO.,  
d/b/a SOUTHWEST AIRLINES, OLYMPIC  
AIRWAYS-SERVICES, SA, d/b/a OLYMPIC  
AIRWAYS and AIR TRANSPORT  
ASSOCIATION,

Defendants.

**ANSWER OF DEFENDANT, BRITISH AIRWAYS, PLC**

Now comes the defendant, British Airways, Plc, and hereby responds to the plaintiff's Complaint as follows:

I. INTRODUCTION AND OVERVIEW OF ACTION

1. This paragraph is introductory in nature and contains assertions and conclusions of law as to which no response is required. To the extent a response is required; Defendant denies the allegations of paragraph 1 of Plaintiff's Complaint in their entirety.

II. PARTIES AND FACTS

2. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 2 of the Complaint and calls upon the plaintiff to prove same.

3. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 3 of the Complaint and calls upon the plaintiff to prove same.

4. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 4 of the Complaint and calls upon the plaintiff to prove same.

5. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 5 of the Complaint and calls upon the plaintiff to prove same.

6. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 6 of the Complaint and calls upon the plaintiff to prove same.

7. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 7 of the Complaint and calls upon the plaintiff to prove same.

8. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 8 of the Complaint and calls upon the plaintiff to prove same.

9. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 9 of the Complaint and calls upon the plaintiff to prove same.

10. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 10 of the Complaint and calls upon the plaintiff to prove same.

11. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 11 of the Complaint and calls upon the plaintiff to prove same.
12. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 12 of the Complaint and calls upon the plaintiff to prove same.
13. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 13 of the Complaint and calls upon the plaintiff to prove same.
14. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 14 of the Complaint and calls upon the plaintiff to prove same.
15. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 15 of the Complaint and calls upon the plaintiff to prove same.
16. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 16 of the Complaint and calls upon the plaintiff to prove same.
17. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 17 of the Complaint and calls upon the plaintiff to prove same.
18. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 18 of the Complaint and calls upon the plaintiff to prove same.
19. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 19 of the Complaint and calls upon the plaintiff to prove same.
20. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 20 of the Complaint and calls upon the plaintiff to prove same.
21. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 21 of the Complaint and calls upon the plaintiff to prove same.
22. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 22 of the Complaint and calls upon the plaintiff to prove same.

23. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 23 of the Complaint and calls upon the plaintiff to prove same.

24. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 24 of the Complaint and calls upon the plaintiff to prove same.

25. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 25 of the Complaint and calls upon the plaintiff to prove same.

26. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 26 of the Complaint and calls upon the plaintiff to prove same.

27. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 27 of the Complaint and calls upon the plaintiff to prove same.

28. The defendant admits that it is organized as a corporation under the laws of Great Britain and that it is qualified to do business in the Commonwealth of Massachusetts. Defendant otherwise denies the allegations set forth in paragraph 28 of the Complaint and calls upon the plaintiff to prove same.

29. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 29 of the Complaint and calls upon the plaintiff to prove same.

30. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 30 of the Complaint and calls upon the plaintiff to prove same.

31. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 31 of the Complaint and calls upon the plaintiff to prove same.

32. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 32 of the Complaint and calls upon the plaintiff to prove same.

33. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 33 of the Complaint and calls upon the plaintiff to prove same.

III. CLASS ACTION ALLEGATIONS

34. This paragraph is introductory in nature and contains assertions and conclusions of law as to which no response is required. To the extent a response is required; Defendant denies the allegations of paragraph 1 of Plaintiff's Complaint in their entirety.

35. The defendant denies the allegations contained in paragraph 35 of the Complaint.

36. The defendant is without knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph 3 of the Complaint and calls upon the plaintiff to prove same.

37. The defendant denies the allegations contained in paragraph 37 of the Complaint.

38. The defendant denies the allegations contained in paragraph 38 of the Complaint.

39. The defendant denies the allegations contained in paragraph 39 of the Complaint.

40. The defendant denies the allegations contained in paragraph 40 of the Complaint.

41. The defendant denies the allegations contained in paragraph 41 of the Complaint.

42. The defendant denies the allegations contained in paragraph 42 of the Complaint.

43. The defendant denies the allegations contained in paragraph 43 of the Complaint.

IV. CAUSES OF ACTION

COUNT I

44. The defendant denies the allegations contained in paragraph 44 of the Complaint.

COUNT II

45. The defendant denies the allegations contained in paragraph 45 of the Complaint.

46. The defendant denies the allegations contained in paragraph 46 of the Complaint.

COUNT III

47. The defendant denies the allegations contained in paragraph 47 of the Complaint.

48. The defendant denies the allegations contained in paragraph 48 of the Complaint.

49. The defendant denies the allegations contained in paragraph 49 of the Complaint.

50. The defendant denies the allegations contained in paragraph 50 of the Complaint.

51. The defendant denies the allegations contained in paragraph 51 of the Complaint.

COUNT IV

52. The defendant denies the allegations contained in paragraph 52 of the Complaint.

COUNT V

53. The defendant denies the allegations contained in paragraph 53 of the Complaint.
54. The defendant denies the allegations contained in paragraph 54 of the Complaint.

WHEREFORE, the defendant says that the plaintiff's Complaint against it should be dismissed and that judgment should enter for the defendant, together with its costs.

AFFIRMATIVE DEFENSES

First Affirmative Defense

And further answering, the defendant says that the Complaint should be dismissed pursuant to Rule 12(b)(2) for lack of jurisdiction over the person of British Airways, PLC.

Second Affirmative Defense

And further answering, the defendant says that the Complaint should be dismissed pursuant to Rule 12(b)(4) for insufficiency of process.

Third Affirmative Defense

And further answering, the defendant says that the Complaint should be dismissed pursuant to Rule 12(b)(5) for insufficiency of service of process.

Fourth Affirmative Defense

And further answering, the defendant says that the Complaint should be dismissed pursuant to Rule 12(b)(6) for failure to state a claim upon which relief can be granted.

Fifth Affirmative Defense

Defendant British Airways, Plc has performed all of the terms and conditions of the contract between the parties, if any, which were to be performed by British Airways, Plc, in accordance with such terms and conditions of contract.

Sixth Affirmative Defense

Plaintiffs' purported claims based upon Massachusetts state law are barred by 26 U.S.C. § 7422.

Seventh Affirmative Defense

And further answering, the defendant says that the Complaint should be dismissed insofar as Plaintiffs' purported claims are preempted by Federal law, including the Federal Aviation Act of 1958 as amended (P.L. 5-726, 72 Stat. 731, formerly codified as 49 U.S.C. § 1301 et seq. now recodified and incorporated into 49 U.S.C. § 40101 et seq.), and 49 U.S.C. § 41713.

Eighth Affirmative Defense

And further answering, the defendant says that to the extent that it had any obligations to the plaintiff, such obligations have been fully, completely and properly performed in every respect.

Ninth Affirmative Defense

Pursuant to applicable tariffs on file with the Department of Transportation of the United States, defendant British Airways, Plc is not liable to plaintiffs.

Tenth Affirmative Defense

Pursuant to tariffs on file with the Department of Transportation of the United States, defendant British Airways, Plc's liability, if any, is partial only and limited.

Eleventh Affirmative Defense

The liability of British Airways, Plc to plaintiff, if any, is limited pursuant to defendant's Conditions of Contract.

Twelfth Affirmative Defense

And further answering, the defendant says that the Complaint should be dismissed insofar as the plaintiffs' claims are barred by the applicable statute of limitations.

Thirteenth Affirmative Defense

And further answering, the defendant says that no fiduciary relationship exists as between the named plaintiffs and the defendant, British Airways, PLC.

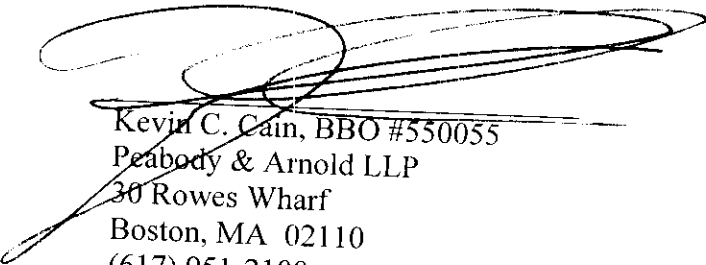
WHEREFORE, defendant British Airways, Plc's demands judgment dismissing the Complaint, together with the costs and disbursements of this action.

**JURY CLAIM**

DEFENDANT, BRITISH AIRWAYS, PLC, HEREBY REQUESTS A JURY TRIAL

British Airways, Plc

By its attorneys,

  
Kevin C. Cain, BBO #550055  
Peabody & Arnold LLP  
30 Rowes Wharf  
Boston, MA 02110  
(617) 951-2100

Dated: February 8, 2005.

**CERTIFICATE OF SERVICE**

I hereby certify that I served a copy of the foregoing pleading on all parties by mailing same, postage prepaid, to all counsel of record.  
Signed under the pains and penalties of perjury

DATED: 2/8/05  
